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DOLLAR TREE STORES, INC.

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

17 KASSONDRA BAAS and KELLY
LOFQUIST, individually and on behalf of all
18 others similarly situated,

19 Plaintiffs,

20 v.

21 DOLLAR TREE STORES, INC.,

22 Defendant.

CASE NO. C 07-03108 JSW (ENE)

**STIPULATION AND [PROPOSED]
PROTECTIVE ORDER**

JUDGE: Hon. Jeffrey S. White

COMPLAINT FILED: June 13, 2007
TRIAL DATE: No date set.

23
24 Plaintiffs Kassondra Baas and Kelly Lofquist ("Plaintiffs") and Defendant
25 Dollar Tree Stores, Inc. ("Defendant"), by their respective counsel, hereby stipulate and
26 agree as follows:

27 WHEREAS, the parties to this proceeding anticipate that during the course
28 of the above-captioned litigation, the parties will produce or provide documents and

1 information which one or more parties contend contain trade secrets or other sensitive,
2 private, confidential or proprietary information; and,

3 WHEREAS, the parties to this proceeding wish to protect the confidentiality
4 of such documents and information and to ensure that the parties can obtain and pursue
5 discovery with the minimum of delay and expense; THEREFORE,

6 IT IS HEREBY AGREED, STIPULATED AND ORDERED THAT:

7 1. In connection with discovery and other proceedings in this action,
8 the parties may designate any document, thing, material, testimony or other information
9 derived therefrom, as "Confidential Information" under the terms of this Stipulated
10 Protective Order. Neither party shall designate any discovery material as "Confidential
11 Information" without first making a determination that the information is properly subject
12 to protection under Fed. R. Civ. P. 26(c) and that such protection is warranted in good
13 faith. Confidential Information shall not be disclosed except as provided for herein.

14 2. Confidential Information is that which any party reasonably believes
15 has not lawfully been made public and which concerns or relates to the personnel
16 information, processes, objectives, strategies, plans, advertising, methodologies,
17 procedures, operations, type of work, products, services, sales, purchases, transfers,
18 identification of customers, customer information, bank and payroll related agreements,
19 policies, marketing plans, vendor information, profit margins, product quantities and
20 costs amount or source of income, costs, profits, losses, financial information, business
21 forecasts, or expenditures of any person, firm, partnership, corporation, or other
22 organization or organizational structure, if the disclosure of such information has the
23 effect of causing harm or potential harm to the competitive position or privacy rights of
24 the person, firm, partnership, corporation, or to the organization from which the
25 information was obtained or of third parties, including but not limited to persons
26 transacting business with any of the parties to this action.

27 3. Documents that are confidential under this Order shall be so
28 designated by writing, typing, stamping or otherwise affixing the legend "Confidential

Information" (and such other and further legend as may reasonably be included to specify such confidentiality) on copies of the document. Stamping the legend "Confidential Information" on the cover of any multi-page document shall designate all pages of the document as confidential, unless otherwise indicated by the producing party. Confidential documents (including deposition transcripts) also may be so designated after production by written communication and reproduction with a "Confidential Information" legend for purposes of substitution of the original documentation, and all parties shall use their best efforts to ensure that no prior disclosure shall be used or re-disclosed contrary to the terms of this Order.

4. The inadvertent or unintentional disclosure of Confidential Information shall not be deemed a waiver in whole or in part of a party's claim of confidentiality. Any such inadvertently or unintentionally disclosed Confidential Information shall be designated as Confidential Information as soon as reasonably possible after the producing party becomes aware of the inadvertent or unintentional disclosure and the producing party shall provide counsel for the other parties with a duplicate copy bearing the legend "Confidential Information," whereupon the unmarked copies will be returned or destroyed.

5. Portions of transcripts of depositions in which any Confidential Information is quoted, paraphrased, discussed or referred to, or in which the subject matter covered by any Confidential Information is discussed or referred to, shall be subject to the same confidential treatment as provided herein for the underlying Confidential Information and shall be designated as confidential. Requests for such confidential treatment may be made at the deposition or at the latest within twenty (20) days after receipt of a transcript thereof. All transcripts of depositions shall be treated as confidential for at least that 20 day period.

6. Recognizing the legitimate confidentiality needs of the parties, all discovery shall be used only by the parties to this action for purposes of resolution of the claims asserted in this action, any trial and appeal of this action, and enforcement of any

1 award or judgment thereon. Information designated as "Confidential Information" under
2 this Order, and any summaries, copies, abstracts, or other documents derived in whole
3 or in part from information, designated as confidential, shall be used only by the parties
4 to this action, for the purpose of the prosecution, defense or settlement of the claims
5 asserted in this action, any trial and appeal of this action and the enforcement of any
6 award or judgment based on such claims, and for no other purpose.

7 7. Confidential Information, produced pursuant to this Order may be
8 disclosed or made available only to counsel for a party (including the paralegal, clerical
9 and secretarial staff employed by such counsel), to a trier of fact or law in any forum in
10 which the claims asserted in this action may be adjudicated or enforced and the
11 administrators of that forum, and to "Qualified Persons." A Qualified Person is a person
12 who falls into one of the categories set forth below:

13 (a) a party, or a current or former officer, director or employee of
14 a party deemed necessary by counsel to aid in the prosecution, defense or settlement of
15 this action;

16 (b) experts or consultants (together with their clerical staff)
17 retained by such counsel to assist in the prosecution, defense or settlement of this action
18 provided; however, that prior to disclosure of any Confidential Information to an expert or
19 consultant, the party that wishes to make the disclosure shall affirm that the expert or
20 consultant has not previously been retained by the non-disclosing party or a competitor
21 of the non-disclosing party. (A competitor shall be defined as any discount variety
22 retailer.) If the expert or consultant has been so retained, the parties shall meet and
23 confer with each other and, if necessary, submit the issue to the Court prior to the
24 disclosure to the expert or consultant of any Confidential Information;

25 (c) witnesses testifying at deposition or at the hearing of this
26 matter either during their testimony or in preparation therefore; however, if a witness
27 refuses to sign the Nondisclosure Agreement, the parties shall meet and confer with
28

1 each other and, if necessary, submit the issue to the Court prior to the disclosure to the
2 witness of any Confidential Information;

3 (d) any person to whom disclosure is reasonably necessary to
4 enforce any award or judgment rendered against any party in this proceeding; and

5 (e) any other person ordered by the Court or as to whom all
6 parties in writing agree.

7 8. Any person or entity to whom Confidential Information is disclosed
8 pursuant to Subparagraphs 7 (a)-(e), above, shall, prior to receiving such Confidential
9 Information, be provided with a copy of this Order and shall execute a Nondisclosure
10 Agreement in the form set forth in Attachment A hereto, such forms to be maintained by
11 counsel for the party sharing Confidential Information and undertaking to have such
12 forms executed.

13 9. On the request of any party, any person who is not a Qualified
14 Person shall be excluded from any deposition during the period in which Confidential
15 Information is used, referred to or discussed.

16 10. The parties may further designate certain discovery material,
17 testimony, or other information of an extraordinarily highly confidential and/or propriety
18 nature as "CONFIDENTIAL INFORMATION COUNSEL ONLY" (hereinafter "Counsel-
19 Only Material" or "Highly Confidential" material), in the manner described above. Such
20 designation shall not be used routinely or to gain advantage in this litigation, but rather
21 shall be used only in exceptional cases where the protections afforded by the
22 Confidential and Highly Confidential classifications are insufficient. For example, where
23 disclosure to clients or witnesses would create a potential for harm to Defendant's
24 business interests (for example, where any such individual is working for a competitor of
25 Defendant). Counsel-Only Material, and the information contained therein, shall be
26 disclosed only to counsel for the parties (including the paralegal, clerical and secretarial
27 staff employed by such counsel), and to experts who execute Attachment A. If
28 disclosure of Counsel-Only Material is made pursuant to this paragraph, all other

1 provisions in this Order with respect to confidentiality shall also apply, except where
2 inconsistent with this paragraph.

3 11. The restrictions set forth in this Stipulation and Order shall not:

4 (a) apply to any discovery matter which a party can show was
5 lawfully possessed, obtained or developed by it other than through discovery in this
6 action;

7 (b) apply to any information which lawfully is or lawfully becomes
8 public knowledge, not in violation of this Stipulation and Order;

9 (c) operate as an admission by the recipient that any of the
10 information contains or reflects confidential information;

11 (d) prejudice in any way the right of any party or non-party to
12 object on any basis to the production of discovery matter it considers not subject to
13 discovery;

14 (e) prejudice in any way the right of any party or non-party to
15 seek a determination from the Court as to whether particular information shall be
16 produced;

17 (f) prevent the parties from entering into a written agreement to
18 alter or waive the provisions or protections provided herein, generally or with respect to
19 any information;

20 (g) prejudice in any way the right of any party or non-party to
21 seek such additional or other protection as that party may deem appropriate with regard
22 to the confidentiality of the information;

23 (h) be construed to require any party to produce information that
24 it considers privileged or otherwise not subject to discovery;

25 (i) be deemed a waiver of any objections a party otherwise
26 would have to any discovery request propounded in this action or a waiver of any third
27 party's claim to right of privacy.

28

12. This Order shall be without prejudice to the right of any party at any time after information is designated Confidential Information to file a motion with the Court, upon not less than ten (10) days notice to all parties: (i) to challenge the designation of any particular document or information as confidential or whether its use should be restricted, provided such party has first made a good-faith attempt to resolve such question with the designating party; or (ii) seek a separate protective order as to any particular document or information, including restrictions differing from those as specified herein. The Order shall not be deemed to prejudice the parties in any way in any future application for modifications of this Order.

13. The parties will mark any document which they believe should be filed under seal either as Counsel-Only Material or as Highly Confidential. Defendant's use of such designations shall only apply to documents containing trade secret and proprietary information of the Defendant, the public disclosure of which would be detrimental to Dollar Tree's competitive interests. The designation of a document in a manner that subjects it to seal shall be subject to a meet and confer requirement if objected to by the other party. The sealing requirements of Local Rule 79-5 will apply to any document so designated until and unless a Court orders that the documents are not subject to seal. Should Plaintiffs desire to file any document so marked by Defendant (that is Counsel-Only Material or Highly Confidential), Defendant will prepare the Administrative Motion to File Under Seal (including the supporting declaration) that is required by Local Rule 79-5 (b) (1). Plaintiffs' counsel shall provide the document(s) to be so submitted to Defendant's counsel who will attend to submitting such documents in accordance with the provisions of Local Rule 79-5.

14. The burden of establishing that any information designated as Confidential Information, Highly Confidential Information, or Counsel-Only Material meets the definitions set forth herein shall be on the party which seeks to uphold the designation. Any information or documents designated as Confidential Information which are subject to motion pursuant to the paragraph shall be treated as Confidential

1 Information in accordance with the terms of this Stipulation and Order until such time as
2 the Court rules otherwise.

3 15. All documents produced in this proceeding shall be used by the
4 party to whom such documents are produced solely for purposes of the investigation
5 and/or resolution of the claims arising in this action, any trial and appeal of this action
6 and the enforcement of any award thereon and for no other purpose.

7 16. This Order shall survive the final termination of this action and the
8 Court shall retain jurisdiction to enforce, construe or modify its terms. Within thirty (30)
9 days following final disposition of this action, counsel for the parties shall assemble and
10 return to each other all Confidential Information (including Highly Confidential
11 Information) and/or Counsel-Only Material, including all copies of same, or (by mutual
12 agreement only) shall certify the destruction thereof, except Counsel shall be permitted
13 to retain for their respective files (i) copies of all papers and documents filed with the
14 Court and (ii) their work product (including documents used to develop legal thoughts
15 and litigation strategy), such as pleadings, correspondence, and memoranda, which
16 contain or refer to confidential discovery matter, provided that all such confidential
17 discovery matter and work product shall remain subject to this Stipulation and Order.
18 Confidential Information (including Highly Confidential Information) and/or Counsel-Only
19 Material, including all copies of same retained pursuant to paragraph 16(ii) shall be
20 returned two years subsequent to the end of the above-captioned litigation. Attorney
21 work-product incorporating such Confidential Information may be maintained by the
22 creating party indefinitely, but subject to the protections from disclosure contained
23 herein. Moreover, information retained shall not be used for any other purpose
24 whatsoever including but not limited to any other litigation.

25 17. The Court shall maintain jurisdiction to enforce the terms of this
26 Order for three (3) years after final disposition of the action.

27
28

1 THE FILER OF THE DOCUMENT ATTESTS THAT THE CONTENT OF THIS
2 DOCUMENT IS ACCEPTABLE TO ALL PERSONS REQUIRED TO SIGN THIS
3 DOCUMENT.

4 DATED: October 16, 2007

Respectfully submitted,
EDGAR LAW FIRM

6
7 By: 
JEREMY R. FIETZ

8 Attorneys for Plaintiffs
9 KASSONDRA BAAS and KELLY
LOFQUIST

10 DATED: October 18, 2007

Respectfully submitted,
KAUFF McCLAIN & McGUIRE LLP

13
14 By: 
MAUREEN E. McCLAIN

15 Attorneys for Defendant
16 DOLLAR TREE STORES, INC.

17
18 PURSUANT TO STIPULATION, IT IS SO ORDERED:
19

20 DATED: _____

21 Honorable Jeffrey S. White
22 United States District Court Judge

ATTACHMENT A

NONDISCLOSURE AGREEMENT

As a condition to inspecting or otherwise using documents and information produced in the above-captioned action, I certify that I have read the attached Stipulation and Order regarding the handling of documents and information designated as "Confidential", "Highly Confidential", or "Confidential Information Counsel Only" (the "Stipulation and Order") and hereby agrees to make no use of such documents and/or information except as permitted by the Stipulation and Order, to make no disclosure of such documents and/or information to persons other than those who may have access to it under such Stipulation and Order, to return all originals and all copies of such documents and/or information when required to do so under the Stipulation and Order, and otherwise to be bound by all of the terms and provisions of the Stipulation and Order.

DATED: _____

SIGNED: _____

4813-0037-8625.1